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1 robertquidachayreply

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FILED
DISTRICT COURT OF GUAM

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MARY L.M. MORAN
CLERK OF COURT

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF GUAM

11 UNITED STATES OF AMERICA,)	CRIMINAL CASE NO. <u>06-00032</u>
12 Plaintiff,)	
13 vs.)	GOVERNMENT'S REPLY
14 ROBERT DUENAS QUIDACHAY,)	TO OPPOSITION TO MOTION
15 Defendant.)	FOR JOINDER; MEMORANDUM
		OF POINTS AND AUTHORITIES

17 COMES NOW the United States, and replies to defendant Quidachay's Opposition to
18 Motion for Joinder requested by the Government pursuant to Federal Rules of Criminal
19 Procedure Rule 8(b) and Rule 13.

MEMORANDUM OF POINTS AND AUTHORITIES

21 The Government seeks the joinder of defendant Robert Duenas Quidachay's case
22 (Criminal Case Number 06-00032) with defendant Jacob R.F. Mateo (Criminal Case Number 06-
23 00033) because they participated in the same act or transaction or same series of acts or
24 transactions constituting the offenses. There is a logical relationship between Robert Duenas
25 Quidachay's case and Jacob Mateo's case. Defendant Jacob Mateo, Robert Quidachay and
26 Judith Mateo have been charged with conspiracy to distribute methamphetamine. The
27 conspiracy manifested itself in this manner: methamphetamine was sold out of the Mateo
28 residence by Jacob Mateo and Judith Mateo. Robert Quidachay acted as a "bodyguard" to protect

1 the product and accompany Judith Mateo during the sales of methamphetamine. Although one of
2 the co-conspirators (defendant Judith Mateo) has pled guilty, this has not ended the "logical
3 relationship" between the remaining co-conspirators Robert Quidachay and Jacob Mateo. The
4 logical relationship exists because both of these co-conspirators possessed methamphetamine on
5 the same date and the methamphetamine was packaged and distributed out of the Mateo
6 residence. Indeed, it is more than a mere coincidence that both defendants have socialized with
7 Judith Mateo while simultaneously possessing methamphetamine. Indeed, the evidence will
8 show the existence of the conspiracy - that drugs were sold from the home, that Judith Mateo
9 used proceeds from the sale of methamphetamine to purchase a vehicle for Jacob Mateo, that
10 Judith Mateo used the proceeds to purchase a car for herself and Robert Quidachay. The fact that
11 Judith Mateo has voluntarily pled guilty does not extinguish the relationship between Jacob
12 Mateo and Robert Quidachay.

13 Joinder is permitted and encouraged in the interest of avoiding multiple trials. The
14 Federal Rules of Criminal Procedure Rule 8(b) permits joinder of offenses or defendants. Rule
15 8(b) states as follows:

16 **Joinder of Defendants.** The indictment or information may charge 2 or more defendants
17 if they are alleged to have participated in the **same act or transaction, or in the same**
18 **series of acts or transactions**, constituting an offense or offenses. The defendants may
be charged in one or more counts together or separately. All defendants need not be
charged in each count.

19 Rule 13 similarly permits joint trials of separate cases. Rule 13 states as follows:
20

21 (b) **Joint Trial of Separate Cases.** The court may order that separate cases be tried
22 together as though brought in a single indictment or information if all offenses and all
defendants could have been joined in a single indictment or information.
23

24 In Zafiro v. U.S., 506 U.S. 534, 538, 113 S. Ct. 933 (1993), the United States Supreme
25 Court noted that "Rule 8(b) states that "two or more defendants may be charged in the same
26 indictment or information if they are alleged to have participated in the same act or transaction or
the same series of acts or transactions constituting an offense or offenses.' There is a preference
27

1 in the federal system for joint trials of defendants who are indicted together. Joint trials 'play a
2 vital role in the criminal justice system.' Richardson v. Marsh, 481 U.S. 200, 209, 107 S. Ct.
3 1702, 1708, 95 L. Ed. 176 (1987). They promote efficiency and 'serve the interests of justice by
4 avoiding the scandal and inequality of inconsistent verdicts.' Id., at 210, 107 S. Ct., at 1708. For
5 these reasons, we repeatedly have approved of joint trials. See ibid., Opper v. United States, 348
6 U.S. 84, 95, 75 S. Ct. 158, 165, 99 L. Ed. 101 (1954); United States v. Marchant, 12 Wheat. 480,
7 6 L. Ed. 700 (1827); cf. 1 C. Wright, Federal Practice and Procedure §223 (2d ed. 1982)."

8 In applying this standard, we look to the phrase "same series of acts or transactions
9 constituting an offense or offenses." The term "transaction" is interpreted flexibly, and whether a
10 "series" exists depends on whether there is a "logical relationship" between the transactions.
11 U.S. v. Vasquez-Velasco, 15 F.3d 833, 844 (9th Cir., 1994). "A logical relationship is typically
12 shown "by the existence of a common plan, scheme, or conspiracy." U.S. v. Vasquez-Velasco,
13 15 F.3d 833, 844 citing Felix-Gutierrez, 940 F.2d at 1208; Ford, 632 F.2d at 1372. Rule 8(b) is
14 construed broadly in favor of initial joinder. Ford, 632 F.2d at 1373. The goal of "maximum
15 trial convenience consistent with minimum prejudice" is best served by permitting initial joinder
16 of charges against multiple defendants whenever the common activity constitutes a substantial
17 portion of the proof of the joined charges." Ford, 632 F.2d at 1372 (quoting United States v.
18 Roselli, 432 F.2d 879, 899 (9th Cir., 1970), cert. denied, 401 U.S. 924, 91 S. Ct. 883, 27 L. Ed. 2d
19 828 (1971) and 8 Moore's Federal Practice 8.06[2] at 8-36.

20 Joinder of defendant Robert Duenas Quidachay's trial with Jacob Mateo's trial in
21 Criminal Case Number 06-00033 would meet the goal of attaining maximum trial convenience,
22 and would save scarce judicial resources. The facts to be proven against Robert Duenas
23 Quidachay are essentially the same as those to be proven against Jacob Mateo. The charges
24 involve overlapping evidence and meaningful connections between the counts of conspiracy and
25 each defendant.

CONCLUSION

The joinder of the trial for defendant Robert Duenas Quidachay with Jacob Mateo's trial will promote the interests of judicial economy, will promote efficiency, and will avoid multiplicity of trials. The facts to be proven against these defendants are overlapping facts. There is a common activity of conspiracy to distribute methamphetamine. The objectives of attaining judicial economy and avoiding the multiplicity of trials can be achieved without substantial prejudice to the rights of each of the defendants.

Respectfully submitted this 11th day of October, 2006.

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By:

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